



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,115	03/10/2004	Joseph M. Asher	04-6198	5930
63710 7590 01/06/2009 DEAN P. ALDERUCCI CANTOR FITZGERALD, L.P. 110 EAST 59TH STREET (6TH FLOOR) NEW YORK, NY 10022				
EXAMINER				
PANDYA, SUNT				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
01/06/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/798,115

**Applicant(s)**

ASHER ET AL.

**Examiner**

SUNIT PANDYA

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD/IC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 2/27/08, 10/1/08, 10/16/08

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 21 & 26 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The most recent copy of the applicant submitted claims state, for above said claims, "a first wagering facility that comprises a first totalisator and that is communicably coupled with a network, the first wagering facility operable to receive a bet on a wagering event hosted by a second wagering facility that comprises of a second totalisator;" However in the applicant's submitted specification, the only description regarding the term "totalisator" is described as;

In a pari-mutuel ("among ourselves") wagering system, all bets regarding a particular event are aggregated, a percentage (or "take-out") is taken by each facility at which the respective bet is made, and the remainder is distributed among the winning bettors. In other words, typical pari-mutuel betting systems, occasionally termed "totalisator" or "tote"

systems, have bettors wagering against other bettors rather than against the house. This betting pool often includes bets made from a number of wagering facilities.

according to the specification, a "totalisator" would be the entire betting system, and thus would not be the first or second individual totalisator as claimed by the applicant submitted claims. Claims 21 & 26 also disclose similar claims, consequently, the same reasoning is also applied to them and thus are rejected under 35 U.S.C. 112, first paragraph.

Thus for the purpose of this rejection, all of the claims have been given, broadest reasonable claim interpretation, and the detailed rejection is disclosed below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 & 4-32 are rejected under 35 U.S.C. 102(e) as being anticipated by  
Brenner et al. (US Patent Publication 2003/0144057)

Claim 1: Brenner et al. discloses a wagering facility communicably coupled with a network and operable to:

Receive a bet on a wagering event comprising plurality totalisator at a facility (figure 1, element 128 & 122 and related description thereof), and transmit the bet to the second wagering facility via the network (0047 & 0048, wherein the first wagering facility can be user computer through which the user makes the selection and the selection is then transmitted to the second wagering facility, i.e. OTB). Brenner et al. also disclose a clearinghouse communicably coupled with the network and operable to capture audit information associated with the bet (0047-0048 and 0072-0073, wherein Brenner discloses of a distribution facility who's functions are similar to a clearinghouse). Brenner et al. also discloses a clearinghouse/distribution facility operable to store one or more contract (payoffs, bet placed) parameters between the first and second wagering facility (0047, 0072-0073, wherein Brenner discloses of a distribution facility who's functions are similar to a clearinghouse). Brenner et al. also discloses receiving result of the wagering game (0049& 0096, figure 3, element 212), and determines a settlement between the first and the second wagering facilities based upon the result (0058, 0084, 0117, 0118, 0124, wherein the contract info between facilities is inherently stored, because when a winning outcome of a race has been achieved, it is the responsibility of the wagering facility to pay/credit the appropriate winning amount to the account, and when the winning outcome is not achieved, the wagering facility debits the appropriate amount from the non-winning account).

Claims 4 & 6: Brenner et al. discloses receiving a second bet on the wagering event hosted by the second wagering facility (118, wherein wagering facility accepts omni bets, superfectas and double-triple bets, which are constituted as a second bet on

a wagering event) and transmitting the bet to the wagering facility via the network (0058). Brenner et al. also discloses clearinghouse operable to capture audit information associated with the second bet (0096 and figure 6, element 350, wherein the transaction history captures audit information associated with the bets).

Claim 5: Brenner et al. discloses storing contract parameters between the wagering facilities (0115, wherein the data that's being stored also includes different types of bets placed by the wagering facility), the contract parameters between wagering facilities define fees charged by the wagering facilities (0164) and determines a second settlement between the wagering facilities based on the result of the second bet (0116, 0117 & 164).

Claim 7: Brenner et al. discloses a plurality of hubs, wherein each hub is associated with a wagering facility (figure 1, element 102, 104, 106 and 108 & 0047 which are totalisator which act as hub, wherein totalisator communicated between one another using data lines).

Claim 8: Brenner et al. discloses one of the hub being clearinghouse (0047, wherein one of the totalisator performs same function as clearinghouse).

Claim 9: Brenner et al. discloses first wagering facility operable to receive the bet from a local betting terminal or third wagering facility (0058, 0073).

Claims 10, 25, 31 & 32: Brenner et al. discloses a simulcast fees owed by the first wagering facility to the second wagering facility, wherein the fees are depend on the wagering facilities and can fluctuate from facility to facility as well as the time when the

racers occur (0164, wherein the fees settlement associated with the totalisator would consistent through out all of the totalisator).

Claims 11, 23 & 29: Brenner et al. discloses the audit information being a transaction identifier (0071), and also discloses terminal identifier (0073).

Claim 12: Brenner et al. discloses wagering facility transmitting the first bet separately from the second bet (0082, wherein the different bets are transmitted separately and independent of each other).

Claims 13, 24 & 30: Brenner et al. discloses wagering event comprising a horse race (0048).

Claim 14: Brenner et al. discloses bet transmitted by the wagering facility to be encrypted and the clearinghouse to decrypt the bet to capture the audit information (0058, discloses transmitting the information regarding wager placed from the facility to the clearinghouse, wherein all the information while being transmitted is converted into digital information (0's and 1's), and the information is converted back to non digital form while displayed by the clearinghouse).

Claim 15: Brenner et al. discloses storing account information of first wagering facility and second wagering facility and transfer funds between their accounts (0058, 0084 & 85).

Claims 16 & 28: Brenner et al. discloses clearinghouse further operable to initiate an Electronic Funds Transfer (EFT) transactions (0035).

Claim 17: Brenner et al. discloses transmitting the bet between the first wagering facility and second wagering facility in real time (0046).

Claim 18: Brenner et al. discloses storing audit information in a log (0164, 0096 and figure 6, element 350, wherein the transaction history captures audit information associated with the bets).

Claim 19: Brenner et al. also discloses clearinghouse operable to capture audit information associated with the second bet (0096 and figure 6, element 350, wherein the transaction history captures audit information associated with the bets).

Claim 20: Brenner et al. also discloses clearinghouse operable to capture audit information associated with the bet (0096 and figure 6, element 350, wherein the transaction history captures audit information associated with the bets), and receive copy of the bet from the wagering facility (0079).

Claims 21 & 26: Brenner et al. discloses memory for storing contract parameters including audit information associated with bet placed (0103, wherein all the transactional information is stored in memory device in user terminal). Brenner discloses of a distribution facility who's functions are similar to a clearinghouse (figure 3, step 212 & 0096) which is to receive result of the wagering game (0049& 0096, figure 3, element 212), and determines a settlement between the first and the second totalisator based upon the result (0058, 0084, 0117, 0118, 0124, wherein the contract info between facilities is stored, because when a winning outcome of a race has been achieved, it is the responsibility of the wagering facility to pay/credit the appropriate winning amount to the account, and when the winning outcome is not achieved, the wagering facility debits the appropriate amount from the non-winning account).



Claims 22 & 27: Brenner et al. discloses storing account information for first wagering facility and second wagering facility (0061& 103 and figures 1&2). Brenner et al. also discloses a processor (0057), which could be used to transfer funds between accounts (0058, 0084 & 85).

### ***Response to Arguments***

Applicant's arguments filed 5/5/08 have been fully considered but they are not persuasive.

The applicant argues that Brenner fails teach, suggest, or disclose "a first wagering facility that comprises a first totalisator", "a second wagering facility that comprises a second totalisator", and determining "a settlement between the first and second wagering facilities" as recited in amended Claim 1. The examiner respectfully disagrees with the applicant. Brenner discloses of a first wagering facility (see rejection above, figure 1, element 122) wherein the user terminals is the first wagering facility which could consist of plurality of betting terminals, just as the betting terminals of second wagering facility (which could be the OTB, wherein the OTB are equipped with multiple wagering terminals to allows a large number of bettors to place bets simultaneously). Alternatively a wagering facility could be multiple homes with wagering terminal(s) use for placing bets utilizing network such as Internet, or a wagering facility could be an OTB with plurality of terminals for placing bets through network such as LAN or WAN.

Regarding settlement according to the Merriam Webster's dictionary, "settlement" is defined as payment or adjustment of an account, Brenner in (0084) teaches of crediting an account if the wager pays off, thus Brenner teaches of settlement between the first and the second facilities. The settlements not only deals with payouts of winning or losing, but also depends on the fees each wagering facility would charge to place bets, wherein these fees are not constant for all of the totalisator, but they tend to fluctuate depending on the totalisator, the race and often the time of the day. Thus Brenner does teach of settlement of fees between totalisator, as discussed in rejection above as well as in paragraph 0164.

Regarding the applicant's argument that Brenner teaches of a local betting terminal and not a wagering facility, the examiner respectfully disagrees. Brenner teaches of a distribution facility that takes the wagering from player terminals to the wagering facility (0048 and 0062, wherein the distribution network is capable of being the "middlemen" and provide a communication link between the terminals and the wagering facility).

Consequently, for the reason provided above, the rejection is maintained.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-F 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SP

/Scott E. Jones/  
Primary Examiner, Art Unit 3714